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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/985,827	11/06/2001	Moon-Jcong Choi	Q65852	4488

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EXAMINER

AVELLINO, JOSEPH E

ART UNIT	PAPER NUMBER
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2143

MAIL DATE	DELIVERY MODE
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08/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/985,827

Applicant(s)

CHOI, MOON-JEONG

Examiner

Joseph E. Avellino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-9,11-13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-9,11-13 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 3-5, 7-9, 11-13, and 15-17 are presented for examination; claims 1, 5, 9, 13, and 17 independent.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ngo et al. (WO 00/04427) (cited by Applicant in IDS) (hereinafter Ngo) in view of Malkin et al. (EP 1 021 021) (cited by Applicant in IDS) (hereinafter Malkin) in view of Satou et al. (USPN 7,076,519) (hereinafter Satou).

3. Referring to claim 1, Ngo discloses a system connected to a home network (Figure 1, entire figure) in which a plurality of devices are connected to one another through the Internet, the system provides a certain device in the home network with a service (p. 7, lines 10-25) comprising:

a database that stores address information about the home network that subscribes to the service, and information about at least one of a plurality of service recipient devices within the home network (col. 6, lines 15-33; col. 7, line 10 to col. 8, line 15).

Ngo does not specifically disclose the system transmits a notifying message to at least one of the plurality of service recipient devices prior to providing the service, to confirm whether the device can receive the service or not, and provides the service to the device after receiving an affirmative response from the device and the notifying message contains additional identifying information of the service recipient device as well as information about an address of the home network to which the plurality of devices belong. In analogous art, Malkin discloses another system connected to a home network for providing a service (i.e. data distribution) wherein the system transmits a notifying message (i.e. status message, PING) to at least one of the plurality of service recipient devices (i.e. client device) prior to providing the service, to confirm whether the device can receive the service or not, and provides the service to the device after receiving an affirmative response (i.e. client has reached the desired status) from the device and the notifying message (to the push proxy server from the awareness server) contains additional identifying information of the service recipient device as well as information about an address of the home network to which the plurality of devices belong (col. 6, line 19 to col. 7, line 57). Furthermore Malkin discloses the additional identifying information (i.e. addressing information such as hostname and IP address) is used for one of the plurality of devices (i.e. client devices) of a same kind (i.e. they are both client computers of the system) that intends to receive a same type of service (i.e. the data push) (col. 7, lines 37-58).

It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Malkin with Ngo since Ngo discloses that the

system is used to collect data from remote meters, however does not specifically disclose an efficient method of collecting the information (p. 10, lines 5-10). This would lead one of ordinary skill searching in efficient methods on collecting non-time dependent data, which would lead one to the system of Malkin and the efficient push technique thereby sending data only when the system is able to sufficiently handle the data distribution as supported by Malkin (col. 2, lines 15-20).

Malkin in view of Ngo do not specifically disclose that the notifying message is used to confirm whether the recipient device is operable to receive the service or not. In analogous art, Satou discloses another service provision system in a network which discloses transmitting a notifying message (i.e. notification) to determine whether one or more of the service recipient devices (i.e. clients) is operable to receive the service or not (i.e. if the client device can handle the bulk download or not, and if so, start downloading) (col. 10, line 61 to col. 11, line 2). It would have been obvious to one of ordinary skill in the art to combine the teaching of Satou with Malkin and Ngo in order to provide an end device the ability to determine when to download data in a push service system, thereby allowing the client to finish up any processing necessary before starting to receive the service, thereby reducing likelihood of buffer overflows.

4. Referring to claims 2 and 3, Ngo discloses the invention substantively as described in claim 1. Ngo does not specifically state that the additional identifying information is used for one of the plurality of devices of a same kind that intends to receive a same type of service. In analogous art, Malkin discloses the additional

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identifying information (i.e. addressing information such as hostname and IP address) is used for one of the plurality of devices (i.e. client devices) of a same kind (i.e. they are both client computers of the system) that intends to receive a same type of service (i.e. the data push) (col. 7, lines 37-58). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Malkin with Ngo since Ngo discloses that the system is used to collect data from remote meters, however does not specifically disclose an efficient method of collecting the information (p. 10, lines 5-10). This would lead one of ordinary skill searching in efficient methods on collecting non-time dependent data, which would lead one to the system of Malkin and the efficient push technique thereby sending data only when the system is able to sufficiently handle the data distribution as supported by Malkin (col. 2, lines 15-20).

5. Referring to claim 4, Ngo discloses the invention substantively as described in claim 1. Ngo does not specifically state the service is a push service that provides a certain service to the devices repeatedly in a predetermined period of time. Malkin discloses another system in which the service is a push service that provides a certain service to the devices repeatedly (i.e. polling) in a predetermined period of time (it is well known that polling a device is done by a schedule with a predetermined period of time set between polls) (col. 8, ¶ 37). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Malkin with Ngo since Ngo discloses that the system is used to collect data from remote meters, however does not specifically disclose an efficient method of collecting the information

(p. 10, lines 5-10). This would lead one of ordinary skill searching in efficient methods on collecting non-time dependent data, which would lead one to the system of Malkin and the efficient push technique thereby sending data only when the system is able to sufficiently handle the data distribution as supported by Malkin (col. 2, lines 15-20).

6. Claims 5-17 are rejected for similar reasons as stated above. Furthermore Ngo discloses the database stores dynamic IP addresses and IDs of the devices (p. 5, lines 25-35; p. 9, line 22 to p. 10, line 10).

Response to Arguments

7. Applicant's arguments filed July 2, 2007 have been fully considered but they are not persuasive.

8. In the remarks, Applicant argues, in substance, that (1) Malkin does not disclose the claimed additional information, (2) Malkin does not disclose the additional information is used for one of the plurality of devices of a same kind that intends to receive a same type of service.

9. As to point (1), Applicant is incorrect. Applicant has not explicitly defined what is meant by the claimed "additional information". Applicant provides examples in the arguments such as device type, serial number, etc, however these examples do not appear in the claims. Applicant should remember that although the claims are

interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Since these examples are not found in the claims, a broad interpretation of the phrase "additional information" has been taken. As such, information which can be utilized to identify the devices can be construed as the additional information. This feature can be found in the Ethernet headers such as the MAC address which identifies the hardware address of the device. This can be construed as the "additional information" which identifies the device. By this rationale, the rejection is maintained.

10. As to point (2), Applicant is incorrect. Applicant should be aware that the claimed limitation is a statement of intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. By this rationale, the rejection is maintained.

Conclusion

11. Applicant has had numerous opportunities to amend the claimed subject matter, and has failed to modify the claim language to distinguish over the prior art of record by clarifying or substantially narrowing the claim language. Thus, Applicant apparently intends that a broad interpretation be given to the claims and the Examiner has adopted

such in the present and previous Office action rejections. See *In re Prater and Wei*, 162 USPQ 541 (CCPA 1969), and MPEP 2111.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Applicant employs broad language, which includes the use of word, and phrases, which have broad meanings in the art. In addition, Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and as reasonably possible, in determining patentability of the disclosed invention. Although the claims are


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interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993). Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JOSEPH AVELLINO, EXAMINER
7/11/07